

From: [Bill Shafford](#)
To: [Susan Spalding/R6/USEPA/US@EPA](#)
Subject: Re: Frisco activists want more public input on Exide cleanup | Dallas-Fort Worth Communities - News for Dallas, Texas - The Dallas Morning News
Date: 12/12/2012 12:21 PM

Susan:

Thanks for this- I do have the questions from Mr. Bradbury. As far as a contact, I'll be the contact since I am the rawp contact. Thanks!

Bill

On Dec 12, 2012, at 12:16 PM, "Spalding.Susan@epamail.epa.gov" <Spalding.Susan@epamail.epa.gov> wrote:

Bill -- I presume you already have these. We also got a call today from a citizen asking about the landfill. Who should we have them talk with at TCEQ?

Susan Spalding
Associate Director, RCRA
Multimedia Planning and Permitting Division
EPA Region 6
phone 214.665.8022

----- Forwarded by Susan Spalding/R6/USEPA/US on 12/12/2012 12:16 PM -----

From: Terry Johnson/R6/USEPA/US
To: Melissa Smith/R6/USEPA/US@EPA
Cc: Richard Ehrhart/R6/USEPA/US@EPA, Susan Spalding/R6/USEPA/US@EPA
Date: 12/12/2012 12:07 PM
Subject: Fw: Frisco activists want more public input on Exide cleanup | Dallas-Fort Worth Communities - News for Dallas, Texas - The Dallas Morning News

Melissa,

Some comments below from Henry Bradbury, who is involved with the Frisco citizens' groups, concerning TCEQ's recent approval of Exide's landfill cleanup plan. He asked me to forward them to you; it looks like he has already provided them to Bill Shafford at TCEQ. I've copied them to a Word document to make them easier to print/distribute.

Terry

Terry Johnson
U.S. EPA Region 6 Air Planning Section
214-665-2154

----- Forwarded by Terry Johnson/R6/USEPA/US on 12/12/2012 11:57 AM -----

From: Henry Bradbury <henrybradbury@gmail.com>
To: Terry Johnson/R6/USEPA/US@EPA
Date: 12/12/2012 11:28 AM
Subject: FW: Frisco activists want more public input on Exide cleanup | Dallas-Fort Worth Communities - News for Dallas, Texas - The Dallas Morning News

Terry,

I noted in your email that EPA plans on meeting with TCEQ later today.

I have prepared some technical comments regarding the 12/7/12 agency action, which I shared this morning with Bill Shafford at TCEQ. My comments are provided below.

Would you please share on my behalf the following with Melissa Smith of your agency?

Thank you.

Henry Bradbury

From: Henry Bradbury <HenryBradbury@gmail.com>
Date: Wednesday, December 12, 2012 11:10 AM
To: Bill Shafford <Bill.Shafford@tceq.texas.gov>
Subject: Re: Frisco activists want more public input on Exide cleanup | Dallas-Fort Worth Communities - News for Dallas, Texas - The Dallas Morning News

Bill,

As a follow up to our conversation this morning, I have prepared for your consideration the following comments regarding the 12/7/12 document.

I understand there is no official opportunity for public comment, but the action raises questions of consistency— and application.

Further, I believe it showcases why a "robust and meaningful public participation process" that is consistent across the Exide facility (Both RCRA and VCP) parcels is needed. The minimum public participation requirements regarding the contamination caused by Exide in Frisco should be that which is required under RCRA — anything less being part of the VCP agreement is confusing and minimizes the public's participation/involvement in an issue in their community caused by one industry with a very poor history of operation.

As one resident reached out to me..."isn't it the same site, dealing the same company, same Smelter, same contaminants, be cleaned up over the same time frame why would there be a different process and requirements?"

There should not be.

Henry Bradbury

COMMENTS ON

EXIDE RESPONSE ACTION WORK PLAN FOR CLASS 2 "NON-

HAZARDOUS” WASTE LANDFILL

DATED DECEMBER 7, 2012

1. How is it possible that this Plan was submitted to, and approved by, TCEQ on the same day (i.e. December 7, 2012)? Has TCEQ performed a meaningful, arm’s length review of this Plan?
2. The Plan does not address how it interrelates with the site investigation report that is to be submitted pursuant to the May 2, 2012 EPA RCRA §3013 Order. That report is expected to include, among other things, proposed remedial measures for the North Landfill.
3. The North Landfill is a SWMU enumerated in Section IX.C of the facility RCRA permit? How does this Plan interrelate with corrective action measures under the permit to be performed for releases of hazardous waste and hazardous constituents?
4. The treatment described for hazardous lead wastes in the Plan would require a RCRA permit, but there is no mention of same in the Plan. See 30 TAC §335.69. Such a permit, or permit modification would require public comment, but the Plan makes no provision for same.
5. Disposal of hazardous waste in the North Landfill makes it a RCRA-regulated unit that should have had interim status and remains an interim status unit until closed and all soils and groundwater impacts have been addressed. 30 TAC §335.111
6. As a regulated unit, it should have a RCRA-compliant groundwater monitoring system and comply with all other applicable interim status standards. 30 TAC Chapter 335, Subchapter E. There is no mention of compliance with these requirements in the Plan.
7. The Plan is an act of closure that requires compliance with the hazardous waste facility closure standards (30 TAC Chapter 335, Subchapter E), including public comment under 30 TAC §335.118(b).
8. The Plan appears to address only treatment and stabilization of wastes, but does not address potential media impacts by the hazardous wastes for the period that they resided in the landfill. The Plan mentions potential excavation to the clay liner, but omits evaluation of the design criteria or integrity of the liner. How will these potential impacts be addressed if the landfill is backfilled after treatment? See 30 TAC §335.118(b).
9. Will Exide face enforcement action for creating an illegal hazardous waste landfill and be required to observe the full panoply of regulatory requirements applicable to hazardous waste landfills?
10. Why is this work not being performed pursuant to a TCEQ order that

would impose automatic enforcement remedies and stipulated penalties for non-compliance given the fact that it was necessitated by a numerous violations of applicable hazardous waste management rules?

11. The flaws and deficiencies noted above constitute grounds for a Motion to Overturn the Executive Director's approval of Exide's Plan. 30 TAC §50.139.

12. Given the pendency of the RCRA §3013 order, EPA needs to be involved in oversight of the work. What provision has been made for such oversight?

From: Bill Shafford <Bill.Shafford@tceq.texas.gov>

Date: Wednesday, December 12, 2012 9:48 AM

To: Henry Bradbury <HenryBradbury@gmail.com>, Terry Johnson <Johnson.Terry@epamail.epa.gov>

Subject: RE: Frisco activists want more public input on Exide cleanup | Dallas-Fort Worth Communities - News for Dallas, Texas - The Dallas Morning News

Thanks!

From: Henry Bradbury [<mailto:henrybradbury@gmail.com>]

Sent: Wednesday, December 12, 2012 9:48 AM

To: Bill Shafford; Terry Johnson

Subject: Frisco activists want more public input on Exide cleanup | Dallas-Fort Worth Communities - News for Dallas, Texas - The Dallas Morning News

<http://www.dallasnews.com/news/community-news/frisco/headlines/20121211-frisco-activists-want-more-public-input-on-exide-cleanup.ece?action=reregister>

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Frisco activists want more public input on Exide cleanup

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By VALERIE WIGGLESWORTH

Staff Writer

vwigglesworth@dallasnews.com

Published: 11 December 2012 10:51 PM

Environmental groups claim that the public is being shut out of the cleanup process for Exide Technologies' secondary lead smelter in Frisco.

The groups Frisco Unleaded and Downwinders at Risk say important decisions are being

made behind closed doors without the public having a chance to review them or provide input.

"We believe there's a pattern of behavior on the part of the company, the state and the city to put decisions about the smelter cleanup behind a lead curtain, intentionally denying public access and involvement," said Jim Schermbeck, director of Downwinders at Risk.

State, company and city officials deny any attempt to exclude the public, saying opportunities are coming up for comment.

The Texas Commission on Environmental Quality is overseeing the cleanup, which began last week. In a statement Tuesday, the agency said: "With input from the TCEQ, Exide has developed a public participation plan that includes a series of public meetings as well as an invitation for the public to submit questions or comments through the Exide website."

Exide ceased operations Nov. 30 as part of an agreement with the city of Frisco. The city will purchase about 180 acres of vacant property around Exide's operations for \$45 million. Exide will retain the remaining property. The first step in the cleanup is decontamination and demolition of the plant.

Exide is hosting a meeting Wednesday night to review its demolition schedule and discuss ways that the public can participate.

"The public has multiple avenues to submit input, including the website made available by Exide," company spokeswoman Susan Jaramillo said.

But Schermbeck said information is being released only after it has been approved. The groups have concerns about how the cleanup is being handled and have asked officials with the U.S. Environmental Protection Agency to take over.

EPA officials in Dallas said in a statement Tuesday that the agency's staff is overseeing the state's federally authorized cleanup program and "a transparent process for public participation and comment is important to environmental protection."

Exide officials say the company is also working with regulators on enforcement issues related to problems found during past inspections at the Frisco plant. They said those plans have long been in the works and are separate from the closure process.

The environmental groups say the city has not kept the public informed about its role in the process, citing as an example the demolition permit it issued to Exide.

"Council members claim they've been transparent, but that just isn't the case," said Colette McCadden of Frisco Unleaded.

Frisco officials say they are complying with the agreement with Exide, which has been made public, and the TCEQ and the EPA, not the city, are the regulatory agencies overseeing the cleanup.

But in response to questions about openness, Frisco officials on Tuesday added two documents to the city's website. The first is an application submitted on behalf of Exide, the Frisco Community Development Corp. and the Frisco Economic Development Corp. to enroll the property being purchased from Exide in the state's voluntary cleanup program. The second was a letter from the TCEQ stating that the application is eligible for the program.

TCEQ officials also said Tuesday they were developing a Web page with documents related to the cleanup project that would be available soon.

AT A GLANCE: Public meeting tonight

What: Public meeting hosted by Exide Technologies to present the expected schedule of decontamination and demolition activities and how the public can participate in the shutdown process

When: 7 p.m. Wednesday

Where: Frisco Heritage Center's Depot, 6499 Page St., Frisco

To learn more: www.exide.com/frisco

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For further information, please contact the EPA Call Center at (866) 411-4EPA (4372). The TDD number is (866) 489-4900.

***** ATTACHMENT NOT DELIVERED *****

<Bradbury comments on Exide landfill plan.docx>